

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed July 17, 2008. At the time of the Office Action, Claims 1-16 were pending in this Application. Claims 1-7 and 10-16 were rejected. Claims 8-9 have been withdrawn due to an election/restriction requirement. Applicant respectfully requests reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 102

Claims 1, 7, 10, and 16 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by Voigt (WO 00/08353). Applicant respectfully traverses and submits the cited art does not teach all of the elements of the claimed embodiment of the invention.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “the identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicant respectfully submits that the cited art as anticipated by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

The present independent claim 1 includes the limitations:

- *a tube-shaped body, that is connected to the tube spring by joining and is arranged in the area of a second free end of the tube spring, and*
- *a means for pretensioning, that is supported by the tube-shaped body and pretensions the piezoelectric actuator*

Thus, as defined in claim 1, the means for pretensioning are separate from the tube-shaped body. This relationship can be seen for example in figure 4 of the present application

which shows exemplary, the tube-shaped body 38 which is connected to the tube spring 32. Separate from this body 38 is pretensioning means 39 which is supported by the tube-shaped body, for example, by means of a thread. Fig. 3E of the present application shows an example of how the pretensioning means 39 can be used to pretension the actuator 31. In this embodiment, the pretensioning means 39 are in form of a screw that applies a pretensioning force to the actuator 31.

Vogt neither discloses nor suggests to provide a tube shaped body and a pretensioning means that is supported by the tube-shaped body. *Vogt* merely discloses a top plate 6 and a bottom plate 5. However, the bottom plate 5 is not tube shaped but is merely in the form of a cylinder. Moreover, there exists no element separate from the bottom plate 5 that may form a pretensioning means which is supported by the bottom plate 5.

The Examiner stated that *Vogt* discloses these elements in paragraph 14. Office Action, page 3, line 2. Applicant respectfully disagrees. *Vogt* does not include paragraph numbers. Thus, Applicant cannot locate the specific paragraph to which the Examiner refers. However, in considering the whole disclosure of *Vogt*, it becomes clear that *Vogt* does not disclose a pretensioning means that is supported by a tube-shaped body. Rather, *Vogt* states that the piezo-electric actor 1 is pre-tensioned by means of the two plates 5, 6 which are held in position by body 4 with preferably 800N to 1000N. *Vogt*, page 4, lines 6-10. Thus, an external force must be applied to the arrangement before at least one of the plates 5 and 6 is permanently welded to the body 4 as otherwise no pretensioning would be created. Most importantly however, plate 5 is not tube-shaped and there simply exists no pretensioning means supported by the tube shaped body.

The same arguments apply to independent claim10. Hence, Applicant believes that all independent claims are patentable in view of the cited prior art. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make

further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

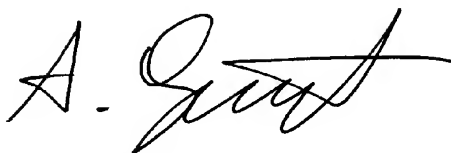
CONCLUSION

Applicant has made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicant respectfully requests reconsideration of the pending claims.

Applicant believes there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2545.

Respectfully submitted,
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A handwritten signature in black ink, appearing to read 'A. Grubert', with a stylized flourish at the end.

Andreas H. Grubert
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Date: October 17, 2008

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